

**Final Order Denying Refund: 01-20170981.ODR
Individual Income Tax
For Tax Year 2013**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this document.

HOLDING

Individuals were not entitled to a refund of state withholding taxes because refund request was outside the two year statute of limitations to request a refund of overpayment.

ISSUE

I. Individual Income Tax - Refund Statute of Limitations.

Authority: IC § 6-3-4-8 (2014); IC § 6-8.1-6-1.

Taxpayers argue that their claim for a refund of withholding tax paid during 2013 should not be barred by the two-year statute of limitations.

STATEMENT OF FACTS

Taxpayers are married individuals residing in Indiana. On October 10, 2014, pursuant to a valid extension, Taxpayers attempted to electronically file their 2013 state and federal individual income tax returns requesting a refund in the amount of \$2,446.00. Taxpayers' federal return was rejected by the Internal Revenue Service ("IRS") due to a discrepancy in dependents claimed on the returns. The Indiana Department of Revenue ("Department"), in turn, also rejected Taxpayers' state filing. Taxpayers assert that they subsequently mailed paper returns prior to the extended filing deadline of October 15, 2014. Those returns were never received by the IRS nor the Department. In July 2016, Taxpayers received a notice from the IRS that their 2013 federal income tax return had not been received. On May 25, 2017, Taxpayers mailed their 2013 state return to the Department. In a letter dated July 22, 2017, the Department stated that, "Your original return requesting the refund was not received before the two (2) year period had expired. Therefore, your claim for refund in the amount of \$2,446.00 has been denied."

Taxpayers disagreed and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayers explained the basis for the protest. This Final Order Denying Refund results.

I. Individual Income Tax - Refund Statute of Limitations.

DISCUSSION

Taxpayers request a refund of excess withholding tax paid during tax year 2013. The issue is whether the 2013 refund request was barred by the two-year statute of limitations in effect for the tax year at issue. Taxpayers acknowledge the two-year statute of limitations for filing a return for refund of excess withholding taxes; however, Taxpayers argue that extenuating circumstances caused a delay in filing the state return at issue.

The statute of limitations for requesting a refund of excess withholding tax paid during the tax year at issue is found under IC § 6-3-4-8(h) (2014), which states:

Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for the employee's taxable year which begins in such calendar year, and a return made by the employer under subsection (b) shall be accepted by the department as evidence in favor of the employee of the amount so deducted from the employee's wages. Where the total amount so deducted exceeds the amount of tax on the employee as computed under this article and [IC 6-3.5](#), the department shall, after examining the return or returns filed by the employee in accordance with this article and [IC 6-3.5](#), refund the amount of the excess

deduction. However, under rules promulgated by the department, the excess or any part thereof may be applied to any taxes or other claim due from the taxpayer to the state of Indiana or any subdivision thereof. **No refund shall be made to an employee who fails to file the employee's return or returns as required under this article and [IC 6-3.5](#) within two (2) years from the due date of the return or returns.** In the event that the excess tax deducted is less than one dollar (\$1), no refund shall be made. **(Emphasis added).**

Taxpayers filed their 2013 Indiana individual income tax return in May 2017, more than two years after the original due date. Even considering that Taxpayers had filed an extension with the IRS, which extended the filing deadline for Taxpayers' 2013 state return to November 15, 2014, under IC § 6-8.1-6-1(c), Taxpayers still filed their return well beyond the statute of limitations. Taxpayers have not presented any evidence that the Department received their 2013 return prior to the end of the statute of limitations, nor have Taxpayers provided any objective evidence that they timely mailed the return to the Department. Thus, there is no indication that the late filing was due to actions or omissions by the Department. Therefore, the Department was correct when it denied the 2013 refund claim on the ground that the claim was submitted after the running of the two-year statute of limitations.

FINDING

Taxpayers' protest is respectfully denied.

Posted: 02/28/2018 by Legislative Services Agency
An [html](#) version of this document.